

REMARKS

This is in response to the Official Action currently outstanding with respect to the above-identified application, which Official Action the Examiner has designated as being FINAL.

Claims 1-7 and 9-40 were outstanding in this application as of the time of the issuance of the currently outstanding FINAL Official Action. By the foregoing Amendment Applicant respectfully requests that Claims 6, 10 and 30 be amended. Applicant also respectfully requests that Claims 1-5, 9, 20, 21 and 37 be canceled, without prejudice. Applicant does not seek the addition of any new claims. No new matter will be introduced into this application in the event that the Examiner grants entry to the foregoing Amendment. Further, Applicant respectfully submits that the entry of the foregoing Amendment will place this application in condition for allowance, or at least in better form for Appeal, as required by 37 CFR 1.116. Accordingly, in the event that the Examiner grants entry to the foregoing Amendment, Claims 6, 7, 10-19, 22-36 and 38-40 will constitute the claims under active prosecution in this application.

A version of the claims as they will stand in the event that the Examiner grants entry to the foregoing Amendment is set forth above as required by the Rules.

More specifically, it is noted that in the currently outstanding FINAL Official Action, the Examiner has:

1. Acknowledged Applicant's claim for foreign priority under 35 USC 119(a)-(d), and indicated that the required certified copies of the priority document have been received by the United States Patent and Trademark Office.

2. Acknowledged Applicant's Information Disclosure Statement of 19 July 200 by providing Applicant with a copy of the Form PTO-1449 that accompanied that Statements duly signed, dated and initialed by the Examiner to confirm his consideration of the art disclosed therein;
3. Indicated that the formal drawings submitted on 26 February 2004 are accepted;
4. Rejected Claims 37 under 35 USC 112, second paragraph – **Note that Applicant proposes that Claim 37 be canceled, without prejudice, in the foregoing Amendment;**
5. Indicated that Claims 16-19, 22-29, 31-36 and 38-40 are allowed;
6. Rejected Claim 6 under 35 USC 102(b) as being anticipated by the Jeon reference (US Patent No. 5,742,383);
7. Rejected Claims 10 and 37 (now proposed to be canceled, without prejudice) under 35 USC 102(e) as being anticipated by the Shoji reference (US Patent No. 6,057,969);
8. Rejected Claims 1-4, 9 and 20-21 under 35 USC 103(a) as being unpatentable over the Okuda et al. reference (US Patent No. 5,883,709) in view of the Katayama reference (US Patent No. 5, 875,167) – **Note that these claims are proposed to be canceled, without prejudice, by the foregoing Amendment;**

9. Rejected Claim 5 under 35 USC 103(a) as being unpatentable over the Okuda et al. reference (US Patent No. 5,883,709) in view of the Katayama reference (US Patent No. 5, 875,167) further in view of the Imai reference (US Patent No. 5,283,600) - **Note that this claim is proposed to be canceled, without prejudice, by the foregoing Amendment;**
10. Rejected Claim 7 under 35 USC 103(a) as being unpatentable over the Jeon reference in view of the Okuda reference;
11. Rejected Claim 11 under 35 USC 103(a) as being unpatentable over the Shoji reference in view of the Nomura reference;
12. Rejected Claim 30 under 35 USC 103(a) as being unpatentable over the Jeon reference in view of the Ichiura reference (US Patent No. 5,708,635);
13. Provided Applicant with a statement of his reasons for allowance and comments upon Applicant's previous argument.

Further comment concerning items 1-5, 8-9 and 13 is not deemed to be required in these Remarks.

With respect to items 6 and 10, Applicant respectfully calls the Examiner's attention to the foregoing Amendment wherein it is proposed that the words "and for transmitting light outside the predetermined waveband" are proposed to be added to the end of Claim 6.

It is believed that this amendment will not require the Examiner to perform any further consideration and/or search in view of Applicant's previous argument. Specifically, Applicant's previous argument included this feature as one of its elements. The Examiner obviously considered that argument but nevertheless refused to withdraw his rejection. The reason for this refusal was explained by the Examiner in the currently outstanding Official Action to be because the argued features were not specifically present in the claim (although they clearly are present in the specification). Hence, the presently proposed amendment makes the previously argued distinguishing features specific in the claim and should justify the withdrawal of the currently outstanding rejections.

In particular, Applicant respectfully submits that the planar portion of the Jeon reference merely reflects light of a specific waveband that has passed through his filter 31. Jeon, however, is totally silent as to whether light outside of the waveband passed by the filter 31 is reflected, transmitted or absorbed thereby.

In contrast, the reflecting part of the present invention reflects only the light within a predetermined waveband, and ***transmits light outside of that waveband***. With this configuration it will be readily seen that the reflecting part formed on the lens transmits light outside of the predetermined waveband when that type of light (i.e., recording/reproducing light used in the optical pickup device) is incident on the lens. In this way, the reflecting part in the present invention prevents stray reflected light from being generated (See, page 15, line 23 to page 16, line 9 and page 35, lines 6-20 of the present specification).

Accordingly, Applicant respectfully submits that Claim 6 now contains the specific limitations found to have been missing therefrom by the Examiner in Applicant's response to the previous Official Action. Consequently, Applicant further respectfully submits that the Examiner's citation of the Jeon reference against Claim 6 is overcome by the foregoing Amendment. A decision so holding and withdrawing the currently outstanding rejection of Claim 6 in response to this communication therefore is respectfully requested.

Claim 7 is dependent upon Claim 6. Accordingly, the currently outstanding rejection of Claim 7 should be withdrawn upon the entry and allowance of amended Claim 6. Nevertheless, Applicant respectfully submits that the following point also should be considered concerning the allowability of Claim 7.

The Examiner has contended that the Okuda reference at Fig. 6 teaches a reflecting part formed on a curved surface. It is to be noted, however, that in his Fig. 6 Okuda simply illustrates surface reflection in which the surface 2A of the lens 1 reflects a beam P used to measure inclination. In surface reflection, however, most of the light (i.e., more than 90% of the incident light) is generally transmitted (meaning that less than 10% of the light is reflected). Consequently, the surface 2A of the lens 1 of Okuda in Applicant's estimation cannot be correctly regarded as a "reflecting part".

More specifically, with reference to Fig. 6 of the Okuda reference, it will be seen that Okuda does not describe the function of reflecting only the light within a predetermined waveband. Accordingly, the surface 2A of the lens 1 of the Okuda reference does not function to reflect only the light within a predetermined waveband as required by the parent claim 6 of this application (i.e., the surface 2A does not serve as a reflecting part as disclosed and claimed in the present application).

Applicant, therefore, respectfully submits that for these reasons as well the currently outstanding rejections of Claims 6 and 7 of the present application should be withdrawn, and respectfully requests a decision so holding in response to this communication.

Turning now to items 7 and 11 above, Applicant respectfully notes that Claim 37 is proposed to be canceled, without prejudice, by the foregoing Amendment. Accordingly, further comment upon Claim 37 in these Remarks is not required.

With respect to Claim 10, however, Applicant respectfully submits that the Examiner's view of the Shoji reference is strained at best. Thus, the Examiner asserts that the lens 10 of the Shoji reference has a plane surface that is just as capable of reflecting light as the plane surface 13a of the lens 13. As far as Applicant can tell from the Shoji reference, however, the Shoji lens 10 has only one forwardly facing plane surface and that plane surface rests against a support flange of the lens group holder 6 behind elements 19 and 14 (Note that the letter "R" is located at the forward end of the Shoji device). Accordingly, the forwardly facing plane surface of lens 10 of the Shoji device is not capable ***in the context of that device*** of reflecting incoming light from the forward end because that rests against a solid flange disposed forwardly of it, and also is located behind several other solid elements located forwardly of it as well.

The Examiner's justification of his position is that the Applicant herein chose the words "capable of" rather than the word "for" in describing the plane surfaces involved. Applicant respectfully submits that the Examiner's position is somewhat overly literal in the present circumstances because no one skilled in the art looking at the Shoji device and considering its operation would think that the forwardly facing plane surface of the lens 10 resting against a solid flange disposed forwardly of it was "capable of" reflecting light in the context of that device. In other words, the Shoji device establishes a context of use of the lens 10 that clearly shows the plane surface of the lens 10 being incapable of reflecting light in the context of the device in which it is used.

Nevertheless, in the interest of expediting the prosecution of this application, Applicant hereinabove has proposed an amendment to Claim 10 that changes the words "capable of" to -- for -- as impliedly suggested by the Examiner in his comments upon Applicant's previous argument. Applicant respectfully submits that as so amended Claim 10 is in condition for allowance and requests a decision so holding in response to this communication.

Claim 11 is dependent upon Claim 10. Hence, upon the allowance of Claim 10 in light of the foregoing Amendment, Applicant respectfully submits that Claim 11 will become allowable as well. Nevertheless, Applicant respectfully submits the following additional comments also support of the allowability of Claim 11.

The reflecting part of the present invention reflects only the light in a predetermined waveband. This is to say that the reflecting part reflects light outside of the waveband used in the optical pickup device. Thus, with this configuration of the reflecting part of the present invention, the recording/reproducing light used in the optical pickup device will not be reflected, thereby preventing stray reflected light from being generated.

In contrast, the Nomura reference relied upon by the Examiner uses an aluminum film for the reflecting part (i.e., light reflecting part 4). Accordingly, the reflecting part disclosed by the Nomura reference with its high reflectivity reflects light of all wavebands and generates undesirable stray reflected light unlike the present invention.

For the foregoing reasons, Applicant respectfully submits that the currently outstanding rejections of Claims 10 and 11 should be withdrawn and those claims should be allowed in response to this communication.

Finally, with respect to item 12 above, Applicant respectfully submits that the Examiner's rejection again is somewhat strained in that it is based upon an overly literal construction of the claim language used in Claim 30. Thus, it will be recognized that in Claim 30 prior to the foregoing amendment it was clearly stated that parallel light was emitted to a lens having a plane surface normal to the optical axis of the lens located at least at its circumference. Further, it was stated **the** parallel light *was prevented from entering* a lens functioning section by a light-shielding member. Applicant respectfully submits that that previous wording was totally clear in its meaning that **the** parallel light (meaning all of the parallel light previously referred to) that otherwise would impinge on a lens functioning section "acting as a lens at the inner radius of the plane surface" (meaning the portion of the lens disposed inwardly from the inner radius of the plane section) was prevented from doing so by a light-shielding member.

The Examiner, however, has refused to construe Claim 11 according to its clear meaning as set forth above. Instead, the Examiner alleges that the Jeon reference discloses the claimed lens with parallel light impinging thereon, and that the Ichiura reference discloses a light-shielding member preventing parallel light from entering the lens functioning section. In this regard, the Examiner has neglected to accord the article “the” used in the claim in association with the parallel light being prevented from entering the lens functioning section any weight. The Examiner has done so despite the fact that the claim defined “parallel light emitted to the lens” in the early part thereof and thereafter indicated that “**the** parallel light” was prevented from entering the lens functioning section. Applicant respectfully submits that normal claim construction would dictate that “**the** parallel light” meant the same parallel light as previously defined in the claim. Hence, Claim 30 prior to the foregoing amendment clearly described the situation wherein substantially all of the emitted parallel light impinging on the lens that would otherwise have impinged on the lens functioning section thereof was to be prevented from doing so by the light-shielding member.

Another possible basis for the Examiner’s rejection of Claim 30 appears to be the portion of Claim 30 that indicates that the lens functioning section “acts as a lens at an inner radius of said plane surface”. This portion of Claim 30 prior to the foregoing Amendment fails to specifically require that the lens functioning section fills the area perpendicular to the optical axis of the lens defined by the inner radius of the plane surface thereof. To clarify this point, Applicant has hereinabove proposed amendments to claim 30 that (i) delete the last quoted clause at the end of the claim, (ii) define the area of the lens functioning section perpendicular to the optical axis of the lens, (iii) equate the area of the light-shielding member to the area of the lens functioning section of the lens, and (iv) specify that the light-shielding member prevents substantially all of the parallel light that otherwise would impinge upon the lens functioning section from entering the lens functioning section. Applicant respectfully submits that the foregoing amendments are supported in the present specification at page 27, line 22 to page 28, line 26.

Furthermore, once the meaning of Claim 30 is clarified in the manner discussed above the inapposite nature of the references cited against that claim in the outstanding Official Action become apparent. Thus, while Jeon might be said to disclose parallel light emitted to a lens of the type claimed for the purpose of detecting inclination, the Ichiura reference clearly is different from the claim. Specifically, Ichiura discloses a light shielding plate 58 that ***decreases light intensity around a cross-sectional center of the laser beam*** so as to generate ultra-resolution and reduce spot size (see Ochiura, Column 1, lines 47-49). It also will be readily seen that the Ochiura reference provides a light-shielding portion 13 of an ultrasolving prism 10. This shielding portion 13 operates to divide the laser beam along a center line ***so as to decrease the intensity at the central portion of the laser beam*** (see Ochiura, Column 4, lines 29-49). Therefore, Ichiura shields part of the incident light on the lens functioning section of the lens. The present invention, on the other hand, shields substantially all of the incident light that otherwise would impinge upon the lens functioning section of the converging lens with a light-shielding member that has an area corresponding to the area of the lens functioning section.

Thus, as previously mentioned, the Ichiura reference neither discloses, teaches or suggests any structure that is the same or comparable to that of the present invention, nor does it teach, disclose or suggest a mode of operation that is the same or comparable to that of the present invention. In these circumstances in light of the foregoing amendment Applicant respectfully submits that Claim 30 clearly is allowable over the art currently of record.

For each and all of the foregoing reasons, Applicant respectfully submits that entry of the foregoing amendment will place this application in condition for allowance, or at least in better form for Appeal, as required by 37 CFR 1.116. Therefore, entry of the foregoing Amendment should be granted in response to this communication.

In addition, Applicant respectfully submits that the foregoing amendments and discussion related thereto clarify issues previously considered during the course of the prosecution of this application by both the Applicant and the Examiner. Consequently, entry of the foregoing amendment in response to this communication should be granted because at the very least the amendments proposed focus and clarify the issues considered previously, but left outstanding by the Examiner's currently pending FINAL rejection. Indeed, Applicant respectfully submits that the foregoing Amendment places this application in condition for allowance in a manner that will not require consideration and/or search of new issues by the Examiner, and that in this state of the case a Notice of Allowability should be issued in response to this communication. An early decision so holding is respectfully requested.

Applicants believe that additional fees are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: June 30, 2004

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